

Petition to Revive
Application No. 09/974,521

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SEP 24 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/974,521
Applicants : Hirschsohn, Ian
Filed : Oct. 9, 2001
Title : PREDICTIVE RESOURCE ALLOCATION IN COMPUTING
SYSTEMS
TC/A.U. : 2127
Examiner : Truong, Camquy

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

DECLARATION OF GERALD T. GRAY

I, Gerald T. Gray declare that I am a lawful age and if called upon to testify, I could and would competently testify to the fact set forth herein, namely:

1. I am a partner in the law firm of Townsend and Townsend and Crew, LLP., which has an office located at Two Embarcadero Center in San Francisco, California.
2. Exhibit A attached hereto is a photocopy of a Notice of Abandonment for U.S. patent application serial number 09/974,521.
3. Note 7 in the Notice of Abandonment states that on August 3, 2006, in a telephone call, Mr. Fidel D. Nwamu, as the Applicant's representative, "indicated that Applicant had abandoned [the] case."
4. Mr. Nwamu's employment with the firm of Townsend and Townsend and Crew ended on December 31, 2002, over three years before the above-referenced telephone call.
5. At no time during his employment by Townsend and Townsend and Crew was Mr. Nwamu authorized by the firm to represent to anyone that the application had been abandoned.
6. To the best of my knowledge and belief, neither the inventor nor his assignee authorized Mr. Nwamu or authorized Townsend and Townsend and Crew to represent to the Patent Office that the application had been abandoned.

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Application No. 09/974,521

I declare under the penalties of perjury that the foregoing are true and correct to the best of my knowledge and belief.

9/21/06
Date

Gerald T. Gray
Gerald T. Gray
Townsend and Townsend and Crew, LLP.



UNITED STATES PATENT AND TRADEMARK OFFICE

021202-000200US
GTG.WC/ITAF

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/974,521 | 10/09/2001 | Ian Hirschsohn | 021202-000200US | 7287 |

20350 7590 08/07/2006

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

TRUONG, CAMQUY

ART UNIT

PAPER NUMBER

2195

DATE MAILED: 08/07/2006

TOWNSEND TOWNSEND
& CREW

Please find below and/or attached an Office communication concerning this application of proceeding. AUG 15 2006


| | | | |
|------------------------------|-----------------|-----------------|--|
| Notice of Abandonment | Application No. | Applicant(s) | |
| | 09/974,521 | HIRSCHSOHN, IAN | |
| | Examiner | Art Unit | |
| | Camquy Truong | 2195 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 26 January 2006.
 - ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - ☐ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☒ The reason(s) below:

In a telephone call on 8/3/06, Applicant's representative, Mr. Fidel D. Nwamu (46, 294), indicated that Applicant had abandoned this case


LEWIS A. BULLOCK, JR.
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
PTOL-1432 (Rev. 04-01)Notice of Abandonment
EXHIBIT A
DECLARATION OF GERALD T. GRAY

Part of Paper No. 3

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